



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

September 18, 2014

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From: William T Fujioka
Chief Executive Officer

REPORT ON THE DIFFERENCES BETWEEN A "NATIONAL RECREATION AREA" AND A "NATIONAL MONUMENT" (ITEM NO. 42-A, BOARD MEETING OF SEPTEMBER 2, 2014)

This memorandum is to report back to the Board on the exact differences between a "National Recreation Area" and a "National Monument," as instructed by the Board on September 2, 2014. Pursuant to the same Board order, this office will submit a separate report on the potential impacts of a San Gabriel Mountains monument plan on public safety, flood control, and emergency services after County departments complete their review and analysis.

Background

National recreation areas and national monuments are among the over 20 different designations (titles) used by Congress in naming individual units of the National Park System (NPS) when they are established. Other titles include national park, parkway, heritage area, historic park, historic site, preserve, reserve, seashore, river, wild and scenic river, memorial, battlefields, battlefield parks, and trail. There are no definitive criteria used to name units of the NPS though most designations give a sense of the type of attraction in the unit, such as recreation, a historic site, trail, or battlefield. In naming a new unit, Congress may choose an existing title or create a new one. Congress also can rename existing units of the NPS. For example, Congress has renamed more than two dozen national monuments to be national parks, including the Grand Canyon, Bryce Canyon, Grand Teton, Joshua Tree, and Zion National Parks.

The Department of Interior's National Park Service administers units of the NPS, though some units, such as national monuments and national recreation areas, sometimes are jointly managed with, or separately managed by other Federal agencies, such as the

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Bureau of Land Management or Forest Service. The Federal agency responsible for managing a unit of the NPS is specified in the enabling legislation establishing the unit. The enabling legislation for each new unit also typically explains the unit's purpose, sets its boundaries, and provides directions for planning, uses, and operations. While there are laws and policies that apply to all units of the NPS, which generally seek to preserve resources in their natural or historic conditions for the benefit of future generations, Congress may make exceptions to certain rules and policies for a given unit when deemed appropriate. In addition to renaming NPS units after they are established, Congress sometimes enacts legislation to modify them, such as by changing their boundaries, management, and permissible uses, and even to abolish them. For example, Congress has abolished 11 national monuments.

Differences Between National Monuments and National Recreation Areas

The singular difference that distinguishes national monuments from national recreation areas and other units of the NPS is that a national monument may be established by the President. Since the Antiquities Act of 1906 authorized the President to establish national monuments on Federal lands that contain "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest," Presidents have created 138 national monuments. Congress has the sole authority to create all other units of the NPS, and also can enact laws to create, rename, modify, or abolish national monuments.

The fact that Presidents are authorized to create national monuments is significant because the likelihood of a President creating a national monument on Federal lands, including in the San Gabriel Mountains, is far greater than that of Congress enacting legislation to create a national recreation area. Since 1996, Congress has created only three national recreation areas while Presidents have issued proclamations creating 35 national monuments, which exceeds the number of all existing national recreation areas. President Obama has created 10 national monuments and enlarged an existing national monument.

Presidents have exercised wide latitude in establishing national monuments by broadly interpreting what is meant by Federal lands with "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest." As a result, national monuments have been created in many sites which might have been given other designations if they, instead, had been established by Congress. In fact, to date, Congress has redesignated 50 national monuments as other units of the NPS, such as national parks, national preserves, national historic sites, and national preserves.

The only other significant difference between a national recreation area and a Presidentially-established national monument is that the latter only may be established on Federal lands. Congress can establish any unit of the NPS, including national recreation areas and national monuments, on any non-Federal as well as Federal lands. Non-Federal property can be included in a national monument if it were acquired by the Federal government before the monument is established. For example, private property donated to the Federal government led to the creation of the Cesar E. Chavez National Monument in 2012. Congress also can enact legislation to expand the boundaries of a national monument to include non-Federal lands. This means that a national monument potentially could be created by the President on the Angeles National Forest land in the San Gabriel Mountains with non-Federal lands added later through an Act of Congress.

Except for the limitation that the President may create a national monument only on Federal lands, there is no fundamental difference between creating a national monument or national recreation area in the San Gabriel Mountains. Except for this difference, all of the other key features, such as permissible uses, planning financing, and management, could be the same for a national monument and national recreation area in the San Gabriel Mountains. For example, existing property rights could be protected the same way with the same Federal agency, such as the U.S. Forest Service, responsible for its management. Moreover, if Congress were to enact legislation to create a national monument or national recreation area, the bill language could be exactly the same except for the difference in the title -- the San Gabriel Mountains National Monument versus the San Gabriel Mountains National Recreation Area.

The President potentially could establish a national monument in the San Gabriel Mountains with boundaries, permissible uses, and other features which differ from a national monument or national recreation area that the Congress might establish. However, it is impossible to predict how they would differ, especially when Congress has not established a national monument or national recreation area since March 2009. Moreover, if a national monument or national recreation area were established in the San Gabriel Mountains, its name, boundaries, management arrangements, and other features could change over time. In fact, it potentially could be changed from a national monument to a national recreation area or vice versa.

We will continue to keep you advised.

WTF:RA
MR:MT:ma

c: All Department Heads
Legislative Strategist